

### **JOINT STATEMENT ON THE INDEPENDENT INVESTIGATION**

We are deeply disappointed and disgusted once again with the recent conduct of Trustees Diane Byrum, Brianna Scott, Melanie Foster and Joel Ferguson regarding their decision to block the pursuit of an independent investigation into Larry Nassar's sexual misconduct. These four trustees have continually demonstrated a complete lack of moral conviction to pursue the truth and ensure that what Larry did to hundreds of women and children never happens to anyone ever again on MSU's campus. Moreover, Trustee Dianne Byrum's weak, deceitful leadership and Trustee Brianna Scott's complete lack of ethical integrity to do what is right is a complete betrayal of the promises and representations they have made in public to support survivors.

We thank Trustees Brian Mosallam, Dan Kelly, Kelly Tebay and Nancy Schlichting for standing in solidarity with survivors and for having the moral fortitude to pursue the full truth of what happened.

Because Dianne Byrum with the full support of Trustees Scott, Ferguson and Foster refuses to sign the engagement letter disregarding a legally binding public vote on the question, we call on MSU President Stanley to immediately initiate an internal investigation into MSU's handling of Larry Nassar's sexual misconduct. If this Board refuses to act because of the lack of moral conviction and personal integrity of a few trustees, then it is imperative that President Stanley use his executive authority to launch an internal investigation to morally do what is right to find out the truth so that his administration and its sexual misconduct and relationship violence expert advisers can be properly informed to advise him on a path forward. Board consent is not necessary for you to take this action, it is within the President's legal and statutory authority to do so. A bipartisan coalition of four trustees: Mosallam, Kelly, Tebay and Schlichting have unequivocally supported an investigation. The other four trustees have zero power to take recourse against this step if you decided to move on it. If this Board will not act, it is time for you President Stanley to let us all know where you stand—hopefully it's with the moral conviction to finally learn the truth about the culture that and individuals who allowed Larry Nassar's sexual misconduct to go unabated for decades on MSU's campus.

Meetings with survivors, absent constructive action to learn the truth, is nothing more than empty steps taken that distract from the need for real change. Survivors do not need more empty statements and listening sessions. We need action. An impasse between those who wish to protect the status quo and refuse accountability and transparency, and those who are ready to move forward towards what is right, has been reached. Choosing not to act is to choose a side. It's either action or silence. We ask you President Stanley to stand with survivors to initiate an internal investigation so we all can learn the truth about what happened if the Board continues to refuse to do so.

Together we can stand in solidarity to move MSU forward. We are committed to doing so *IF* either the MSU Board of Trustees honors its good faith commitment to move forward with an independent investigation or President Stanley moves forward with an internal investigation.

We have poured our hearts and souls into this process since late January, 2019, when Trustee Dan Kelly reached out to Rachael Denhollander, believing that with the election over and three new trustees, there may now be Board support for a truly independent investigation.

This step should have been common sense from the very beginning, not only because a comprehensive review is necessary to identify failures across a broad spectrum, but because an examination of the culture from the top-down is vital in learning how to dismantle unhealthy dynamics and reestablish patterns of transparency, accountability and safety for survivors. Such a review is an intrinsic part of demonstrating a true commitment to these principles, and necessary for survivors to begin to feel safe to speak up on campus. For the sake of those already harmed, and for the safety of those yet to come, a comprehensive review is necessary.

At the Board's request, Rachael Denhollander, Sarah Klein and Sterling Riethman began communicating with members of the Board in January regarding what this investigation must look like, and vetting firms that we believed may be able to operate truly independently, pursue the truth, and give knowledgeable input into correcting the failures at MSU moving forward.

**We made it clear that the following was necessary:**

- A full review of all failures, including the Board and Administration's handling of the matter. This was to focus on both the facts *and the culture* at MSU, and examine any failure *including non-criminal failures*. The AG investigation is critical, but only looking at a small portion of what went wrong. The same is true of the OCR investigation. MSU's deficiencies and failures in many instances were not criminal. They were cultural, structural or individual. The AG investigation is designed to correct past wrongs through criminal prosecutions. This independent investigation was designed to inform MSU's decision-makers on a way forward to make sure it can never happen again.
- This review was to also encompass MSU'S handling of the issue from the time Denhollander came forward and what followed, including answering questions such as, why employees with information did not speak up voluntarily, and how the Board and administration handled the scandal and survivors, particularly examining the culture and impact of Board and administrative decisions.
- This review was to include a special master process, whereby **all** the facts from the 6300 privileged documents were turned over to the firm we retained, and to the AG's office. Trustees Byrum and Scott unequivocally refused our demand for a waiver of privilege or a special master process, but four trustees (Kelly, Mosallam, Tebay and Schlichting) were willing to commit to a methodical hand-redaction process by qualified experts not previously connected to MSU. This process would ensure that each fact contained in the 6300 privileged documents was obtained and given to investigators and law enforcement, including all facts related to the Board and administration. The obtaining of every fact related to Nassar, MSU and administration/the Board is non-negotiable for survivors. Even though we were told that MSU's lawyers advised that this was a feasible option, Trustees Byrum and Scott continuously used it as an excuse not to move forward. That is a red herring. MSU was explicitly advised that it could do this special master process to extract all factual information from its privileged documents without waiving privilege. Trustees Mosallam, Kelly, Tebay and Schlichting supported moving forward with it. Trustees Byrum, Scott, Foster and Ferguson did not, and have now blocked it.
- The review was to produce a comprehensive, fully public, written report that was unedited by the Board, and an acknowledgment from the Board of these specific failures. Something we have asked for, for three years, to no avail.

**The process**

We began moving towards this process in early February. Trustees Kelly, Mosallam, Schlichting and Tebay were consistently supportive and engaged, acknowledging that this step should have been taken immediately.

However, the remaining Board members, while stating languid support, undermined and stalled these efforts at every point. Trustee Scott, who was on the vendor selection committee, maintained a consistent pattern of obstructing the independent investigation since the Board started discussing the option in January 2019 shortly after Engler was terminated as president. At one point, Trustee Scott demanded that all survivor advisors sign a non-disclosure agreement with MSU, despite MSU's clear pattern of untrustworthy and manipulative behavior. In addition, the word of survivors was so doubted by Trustee Scott that we were asked to sign documents reaffirming that we were not financially benefitting from our participation in assisting with the investigation and firm selection, *despite having refuted this insinuation repeatedly* and the Trustees having received written disclosures from the firms being vetted.

The other Trustees who were participating: Kelly, Schlichting, Tebay and Mosallam rebuked Scott's demands for the NDA and conflict statement. But this behavior is doubly appalling as the insinuation of receiving kickbacks for our advocacy is the same allegation John Engler previously made against Rachael Denhollander, which resulted in Trustees Byrum and Mosallam calling for his resignation and motioning for it during a Board meeting. Trustee Scott's behavior throughout this entire process was revictimizing, untrustworthy and lacked all ethical integrity.

When the survivor committee and four supportive trustees selected the firm as recently announced, the four non-supporting Board members delayed, pushed for other firms to be substituted for the firm the survivor committee selected, and pushed back the retention date. Trustee Byrum then sat on the engagement letter and refused to sign it for weeks and months, until a coordinated effort between Byrum, Scott, Ferguson and Foster could be made to end the process.

Friday, Trustee Byrum, Scott, Ferguson and Foster have, once again, successfully ended our attempts at transparency and reform, without bothering to even discuss their decision with us. The public statement ending the investigation we'd worked on for eight months was read at the Board meeting without giving us any prior notice whatsoever.

The vote was taken quickly that day because Trustee Schlichting was unable to attend the meeting, thereby ensuring that the four trustees who have undermined the process from day one, would have the majority and be able to kill the independent investigation once again.

**Trustee Byrum's assertion that the OCR review was sufficient and there is nothing left to examine, is knowingly dishonest.** We have personally and *repeatedly* discussed with Trustees Byrum and Scott why the independent investigation is necessary and distinct from other reviews. As the four non-supporting trustees are aware, the OCR review includes none of the facets the survivor committee identified as vital and foundational to reform at MSU.

For these four trustees to state that the OCR process was complete and there is nothing left to be done is deceitful, and pointedly ignores the requests and input from survivors, as well as best practices. Put simply, it is a slap in the face.

We poured eight months of time and effort into this process, knowing it was the right thing to do, and necessary to obtain the truth. We did this at our expense, during time we could have spent with our children or in our own careers. Choosing to re-engage with an institution that has caused us, and so many, so much damage was an exhausting process, but one we chose, because it was the right thing to do for the future.

We are disgusted at this betrayal once again by Trustees Byrum, Ferguson, Scott and Foster. Which Board members are working together should speak volumes to anyone who is watching. MSU'S continued refusal to pursue real accountability or a thorough investigation, should speak volumes.

This decision to refuse full transparency, coming on the heels of MSU'S new motion to dismiss survivor claims, alleging they have no responsibility for what took place on their campus, makes their motivation clear. MSU is a publicly funded institution that harbored one of the worst predators in the country, in sports history, and the history of any college, let alone any institution—public or private. And yet these four Board members refuse to cooperate with the Attorney General's investigation, or pursue any voluntary accountability whatsoever.

These issues will, and should, continue to plague MSU going forward. This is not a "Larry" problem. This is a problem with the culture, the institution itself and, most importantly, with leadership from the top down. A problem we saw repeat itself this week. The behavior of the four Board members who once again refused transparency and accountability, is unacceptable, and it will continue to be unacceptable, placing everyone on the campus at risk, and revictimizing the women they have already so harmed and continue to do so.

**We therefore publicly request that President Stanley act in his executive capacity to reinstate the investigation we had requested and worked on with Trustees Mosallam, Kelly, Tebay and Schlichting, in full.** The support of four Board members is guaranteed and present, and if the remaining four Board members will not act for transparency and accountability, it is incumbent upon President Stanley to take leadership and do so. It is within his statutory authority to do so.

While we had hoped and worked towards a unified movement with the Board and Administration, pursuing transparency, accountability and healing, it is clear that four Board members will refuse to pursue these goals. Therefore, President Stanley and the administration must choose whether do the right thing or pay survivors more lip service.

We regret that this is the position we are all in. However, we have repeatedly had to choose what is right despite the pain, grief and deep personal cost to us. We are asking President Stanley to choose to stand with us. Simon refused to do so. Engler refused to do so. Scott refused to do so. And Byrum refused to do so. There is a chance now for the new President to take a different position, and lead in a new direction. The healing and forward movement of MSU, and the safety of individuals on campus, depend upon it.